

SENATE BILL No. 235

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8.

Synopsis: Military veteran public safety officer hiring age. Increases the maximum age for appointment as a police officer or firefighter from less than 36 years of age to less than 40 years of age if the applicant is a veteran of the armed forces of the United States.

Effective: July 1, 2016.

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January 7, 2016, read first time and referred to Committee on Local Government.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 235

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-8-3.5-12, AS AMENDED BY P.L.99-2007,
2 SECTION 214, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) To be appointed to the
4 department, an applicant must be:

- 5 (1) a citizen of the United States;
6 (2) a high school graduate or equivalent; and
7 (3) at least twenty-one (21) years of age, but under:
8 **(A) thirty-six (36) years of age; or**
9 **(B) forty (40) years of age, if the applicant is a veteran of**
10 **the armed forces of the United States.**

11 However, the age requirements do not apply to a person who has been
12 previously employed as a member of the department.

13 (b) A person may not be appointed, reappointed, or reinstated if ~~he~~
14 **the person** has a felony conviction on ~~his~~ **the person's** record.

15 (c) Applications for appointment or reappointment to the
16 department must be filed with the commission. The applicant must
17 produce satisfactory proof of the date and place of ~~his~~ **the applicant's**



1 birth.

2 (d) Applicants for appointment or reappointment to the department
3 must pass the general aptitude test required under IC 36-8-3.2-3 or
4 IC 36-8-3.2-3.5. The general aptitude test shall:

- 5 (1) reflect the essential functions of the job;
6 (2) be conducted according to procedures adopted by the
7 commission; and
8 (3) be administered in a manner that reasonably accommodates
9 the needs of applicants with a disability.

10 The results of the general aptitude test shall be filed with the
11 commission. If the commission finds that the applicant lacks the proper
12 qualifications, it shall reject the applicant.

13 (e) The applicants shall then be rated on the selection criteria and
14 testing methods adopted by the commission, which may include mental
15 alertness, character, habits, and reputation. The commission shall adopt
16 rules for grading the applicants, including the establishment of a
17 passing score. The commission shall place the names of applicants with
18 passing scores on an eligibility list by the order of their scores and shall
19 certify the list to the safety board.

20 (f) If an applicant for original appointment reaches ~~his the~~
21 **applicant's** thirty-sixth birthday **(or fortieth birthday, if the**
22 **applicant is a veteran of the armed forces of the United States), his**
23 **the applicant's** name shall be removed from the eligibility list.
24 Applicants remain on the list for two (2) years from the date of
25 certification. After two (2) years a person may reapply as an applicant.

26 (g) When a vacancy occurs in the department, the commission, upon
27 a written request of the chief of the department, shall administer the
28 physical agility test under IC 36-8-3.2-3 or IC 36-8-3.2-3.5 to the
29 applicant having the highest score on the eligibility list. If the
30 appointed applicant successfully completes the physical agility test, the
31 applicant shall then be enrolled as a member of the department to fill
32 the vacancy if:

- 33 (1) the applicant is still of good character; and
34 (2) the applicant passes the required examinations identified in
35 IC 36-8-3.2-6 and IC 36-8-8-19.

36 (h) All appointments are probationary for a period not to exceed one
37 (1) year. If the commission finds, upon the recommendation of the
38 department during the probationary period, that the conduct or capacity
39 of the probationary member is not satisfactory, the commission shall
40 notify ~~him the member~~ in writing that ~~he the member~~ is being
41 reprimanded, that ~~he the member~~ is being suspended, or that ~~he the~~
42 **member** will not receive a permanent appointment. If a member is



1 notified that ~~he~~ **the member** will not receive a permanent appointment,
 2 **his the member's** employment immediately ceases. Otherwise, at the
 3 expiration of the probationary period the member is considered
 4 regularly employed.

5 SECTION 2. IC 36-8-4-7 IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) A person may not be
 7 appointed as a member of the police department or fire department
 8 after the person has reached:

9 (1) thirty-six (36) years of age; or

10 (2) **forty (40) years of age, if the person is a veteran of the**
 11 **armed forces of the United States.**

12 A person may be reappointed as a member of the department only if the
 13 person is a former member or a retired member not yet receiving
 14 retirement benefits of the 1925, 1937, 1953, or 1977 fund and can
 15 complete twenty (20) years of service before reaching sixty (60) years
 16 of age.

17 (b) This section does not apply to a fire chief appointed under a
 18 waiver under section 6(c) of this chapter or a police chief appointed
 19 under a waiver under section 6.5(c) of this chapter.

20 (c) A person must pass the aptitude, physical agility, and physical
 21 examination required by the local board of the fund and by
 22 IC 36-8-8-19 to be appointed or reappointed as a member of the
 23 department.

24 (d) A fire chief appointed under a waiver under section 6(c) of this
 25 chapter or police chief appointed under a waiver under section 6.5(c)
 26 of this chapter who is receiving, or is entitled to receive, benefits from
 27 the 1925, 1937, 1953, or 1977 fund may receive those benefits while
 28 serving as chief, subject to all normal requirements for receipt of a
 29 benefit, including a separation from service.

30 SECTION 3. IC 36-8-8-7, AS AMENDED BY P.L.111-2015,
 31 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2016]: Sec. 7. (a) Except as provided in subsections (d), (e),
 33 (f), (g), (h), (k), (l), and (m), ~~(1)~~ a police officer or ~~(2)~~ a firefighter who:

34 (1) is less than:

35 (A) thirty-six (36) years of age; or

36 (B) **forty (40) years of age, if the police officer or**
 37 **firefighter is a veteran of the armed forces of the United**
 38 **States; and**

39 (2) ~~who~~ passes the baseline statewide physical and mental
 40 examinations required under section 19 of this chapter;
 41 shall be a member of the 1977 fund and is not a member of the 1925
 42 fund, the 1937 fund, or the 1953 fund.



(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires the police officer or firefighter chooses to contribute to the 1977 fund the amount necessary to amortize the police officer's or firefighter's prior service liability over a period of not more than thirty (30) years, the amount and the period to be determined by the system board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for the police officer's or firefighter's prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if the police officer or firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and
- (3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);
- (3) was rehired after April 30, 1977, but before February 1, 1979; and
- (4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

- (1) was hired by the police or fire department of a unit before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both



of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, the police officer or firefighter is entitled to receive credit for all the police officer's or firefighter's years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction; shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

(1) a fire chief under a waiver under IC 36-8-4-6(c); or

(2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

(1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;



1 (2) graduated from the Indiana law enforcement academy or a
 2 comparable law enforcement academy in another state; and
 3 (3) is employed by the parks department of a city having a
 4 population of more than one hundred ten thousand (110,000) but
 5 less than one hundred fifty thousand (150,000);
 6 is a member of the fund.

7 (k) Notwithstanding any other provision of this chapter, a police
 8 officer or firefighter:

9 (1) who is a member of the 1977 fund before a consolidation
 10 under IC 36-3-1-5.1 or IC 36-3-1-6.1;
 11 (2) whose employer is consolidated into the consolidated law
 12 enforcement department or the fire department of a consolidated
 13 city under IC 36-3-1-5.1 or IC 36-3-1-6.1; and
 14 (3) who, after the consolidation, becomes an employee of the
 15 consolidated law enforcement department or the consolidated fire
 16 department under IC 36-3-1-5.1 or IC 36-3-1-6.1;
 17 is a member of the 1977 fund without meeting the requirements under
 18 sections 19 and 21 of this chapter.

19 (l) Notwithstanding any other provision of this chapter, if:

20 (1) before a consolidation under IC 8-22-3-11.6, a police officer
 21 or firefighter provides law enforcement services or fire protection
 22 services for an entity in a consolidated city;
 23 (2) the provision of those services is consolidated into the law
 24 enforcement department or fire department of a consolidated city;
 25 and
 26 (3) after the consolidation, the police officer or firefighter
 27 becomes an employee of the consolidated law enforcement
 28 department or the consolidated fire department under
 29 IC 8-22-3-11.6;
 30 the police officer or firefighter is a member of the 1977 fund without
 31 meeting the requirements under sections 19 and 21 of this chapter.

32 (m) A police officer or firefighter who is a member of the 1977 fund
 33 under subsection (k) or (l) may not be:

34 (1) retired for purposes of section 10 of this chapter; or
 35 (2) disabled for purposes of section 12 of this chapter;
 36 solely because of a change in employer under the consolidation.

37 (n) Notwithstanding any other provision of this chapter and subject
 38 to subsection (o), a police officer or firefighter who:

39 (1) is an active member of the 1977 fund with an employer that
 40 participates in the 1977 fund;
 41 (2) separates from that employer; and
 42 (3) not later than one hundred eighty (180) days after the date of



1 the separation described in subdivision (2), becomes employed as
2 a full-time police officer or firefighter with a second employer
3 that participates in the 1977 fund;
4 is a member of the 1977 fund without meeting for a second time the
5 age limitation under subsection (a) and the requirements under sections
6 19 and 21 of this chapter. A police officer or firefighter to whom this
7 subsection applies is entitled to receive credit for all years of 1977 fund
8 covered service as a police officer or firefighter with all employers that
9 participate in the 1977 fund.
10 (o) The one hundred eighty (180) day limitation described in
11 subsection (n)(3) does not apply to a member of the 1977 fund who is
12 eligible for reinstatement under IC 36-8-4-11.

